

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>MICHAEL KINCAID,</b>	)	<b>CASE NO. 8:04CV287</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>COUNTY OF DOUGLAS, NEBRASKA,</b>	)	
<b>AND JOHN DOE, in his capacity as</b>	)	
<b>the Director of the Nebraska</b>	)	
<b>Department of Corrections,</b>	)	
	)	
<b>Defendants.</b>	)	

This matter is before the Court on the Report and Recommendation of Magistrate Judge F.A.Gossett recommending dismissal of this case based on his conclusion that the case had been abandoned by the Plaintiff, Michael Kincaid. (Filing No. 28). It is Judge Gossett's second recommendation that this case be dismissed. I rejected the first recommendation because, after the recommendation was made, Kincaid reestablished contact with his attorney, and through her, with the Court. Since that time, Kincaid's attorney has been granted leave to withdraw from the case, and Kincaid has failed to respond to a show-cause order. A copy of the Report and Recommendation, which was filed on August 17, 2005, was sent to Kincaid at his last known address. Kincaid has made no contact with the Court since April of this year.

Pursuant to NECivR 72.3, a magistrate judge's recommendation concerning dismissal of an action is reviewed *de novo*, and the objecting party is required to file a statement of objection specifying the portions of the recommendation to which the party objects. The Court may accept, reject, or modify, in whole or in part, a magistrate judge's findings or recommendations.

Although no objection has been filed to the Report and Recommendation, I have conducted a *de novo* review of the matter, and I fully concur with Judge Gossett's report and recommendation. For the reasons stated in Judge Gossett's report,

**IT IS ORDERED:**

1. The Report and Recommendation (Filing No. 28) is adopted in its entirety; and
2. The Complaint is dismissed without prejudice.

Dated this 12<sup>th</sup> day of October, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge